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*Attorneys for Defendants Louise Paris, Ltd.
and Ross Stores, Inc.*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

STANDARD FABRICS
INTERNATIONAL, INC., a California
corporation,

Plaintiff,

v.

LOUISE PARIS, LTD., a New York
corporation; ROSS STORES, INC., a
California corporation; and DOES 1-
10,

Defendants.

Case No.: 2:15-cv-04826 (ODW) (AGRx)

Hon. Otis D. Wright, II

**DEFENDANTS LOUISE PARIS,
LTD.'S AND ROSS STORES, INC.'S
ANSWER AND AFFIRMATIVE
DEFENSES TO COMPLAINT**

1 Defendants Louise Paris, Ltd. (“Louise Paris”) and Ross Stores, Inc. (“Ross”)
2 (collectively, “Defendants”), through their undersigned attorneys, hereby answer
3 Plaintiff Standard Fabrics International, Inc. (“Plaintiff”)’s Complaint as follows:

4 **JURISDICTION AND VENUE**

5 1. In response to paragraph 1 of the Complaint, Defendants admit that
6 Plaintiff’s claims are based on alleged violations of the Copyright Act, but deny the
7 merits of such claims.

8 2. In response to paragraph 2 of the Complaint, Defendants deny that this
9 Court has federal question jurisdiction under 28 U.S.C. § 1338(b), as Plaintiff has not
10 asserted any claim for unfair competition in this action, but admit that this Court has
11 subject matter jurisdiction over the claims asserted against them in this action, and
12 deny the merits of such claims.

13 3. Defendants are without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 3 of the Complaint and, therefore,
15 deny the same.

16 **THE PARTIES**

17 4. Defendants are without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of paragraph 4 of the Complaint and, therefore,
19 deny the same.

20 5. In response to paragraph 5 of the Complaint, (a) Louise Paris denies the
21 allegations contained therein except that it admits that it is a limited liability company
22 organized under the laws of the State of New York with a principal place of business
23 located at 1407 Broadway, Suite 1405, New York, New York 10018, that is doing
24 business in (not with) the State of California, and (b) Ross is without knowledge or
25 information sufficient to form a belief as to the truth of the allegations contained
26 therein, and, therefore, denies the same.

27 6. In response to paragraph 6 of the Complaint, (a) Ross denies the
28 allegations contained therein, and states instead that it is a corporation organized

1 under the laws of the State of Delaware with corporate offices located at 5130
2 Hacienda Drive, Dublin, California 94568, that is doing business in (not with) the
3 State of California, and (b) Louise Paris is without knowledge or information
4 sufficient to form a belief as to the truth of the allegations contained therein, and,
5 therefore, denies the same.

6 7. Defendants are without knowledge or information sufficient to form a
7 belief as to the truth of the allegations of paragraph 7 of the Complaint and, therefore,
8 deny the same.

9 8. Defendants are without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 8 of the Complaint and, therefore,
11 deny the same.

12 9. Defendants deny the allegations of paragraph 9 of the Complaint.

13 **CLAIMS RELATED TO DESIGN NO. 7489**

14 10. Defendants are without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 10 of the Complaint and,
16 therefore, deny the same, and further state that the image contained in paragraph 10
17 speaks for itself, but that they are without knowledge or information sufficient to
18 form a belief as to whether the image of the “Subject Design” is a true and correct
19 copy of the deposit material submitted to the U.S. Copyright Office in connection
20 with Plaintiff’s purported registration of “7489”.

21 11. Defendants are without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 11 of the Complaint and,
23 therefore, deny the same.

24 12. Defendants are without knowledge or information sufficient to form a
25 belief as to the truth of the allegations of paragraph 12 of the Complaint and,
26 therefore, deny the same.

27 13. In response to paragraph 13 of the Complaint, Defendants deny all of the
28 allegations contained therein, and further state that they are without knowledge or

1 information sufficient to form a belief as to whether the image of the “Subject
2 Product” is a true and correct image of a garment allegedly sold by Ross under SKU
3 No. 400127965976, or otherwise, and, therefore, deny the same.

4 14. Defendants deny the allegations of paragraph 14 of the Complaint.

5 **FIRST CLAIM FOR RELIEF**

6 (For Copyright Infringement - Against All Defendants)

7 15. Defendants restate and incorporate by reference their responses to
8 paragraphs 1 through 14 above, as if fully set forth herein.

9 16. Each Defendant denies the allegations of paragraph 16 of the Complaint
10 as to itself, and is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations as to the other Defendants and, therefore, denies the same.

12 17. Each Defendant denies the allegations of paragraph 17 of the Complaint
13 as to itself, and is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations as to the other Defendants and, therefore, denies the same.

15 18. Each Defendant denies the allegations of paragraph 18 of the Complaint
16 as to itself, and is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations as to the other Defendants and, therefore, denies the same.

18 19. Defendants deny the allegations of paragraph 19 of the Complaint.

19 20. Defendants deny the allegations of paragraph 20 of the Complaint.

20 21. Defendants deny the allegations of paragraph 21 of the Complaint.

21 22. Each Defendant denies the allegations of paragraph 22 of the Complaint
22 as to itself, and is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations as to the other Defendants and, therefore, denies the same.

24 **SECOND CLAIM FOR RELIEF**

25 (For Vicarious and/or Contributory Copyright Infringement -

26 Against All Defendants)

27 23. Defendants restate and incorporate by reference their responses to
28 paragraphs 1 through 22 above, as if fully set forth herein.

1 24. Each Defendant denies the allegations of paragraph 24 of the Complaint
2 as to itself, and is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations as to the other Defendants and, therefore, denies the same.

4 25. Each Defendant denies the allegations of paragraph 25 of the Complaint
5 as to itself, and is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations as to the other Defendants and, therefore, denies the same.

7 26. Defendants deny the allegations of paragraph 26 of the Complaint.

8 27. Defendants deny the allegations of paragraph 27 of the Complaint.

9 28. Each Defendant denies the allegations of paragraph 28 of the Complaint
10 as to itself, and is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations as to the other Defendants and, therefore, denies the same.

12 **AFFIRMATIVE DEFENSES**

13 By and for their affirmative defenses, Defendants state as follows:

14 **FIRST AFFIRMATIVE DEFENSE**

15 The Complaint, and the claims for relief therein, fails to allege facts sufficient
16 to state a claim for relief against Defendants, including, but not limited to, failure to
17 meet the standard of pleading set by the Supreme Court in *Ashcroft v. Iqbal*, 129 S.
18 Ct. 1937 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

19 **SECOND AFFIRMATIVE DEFENSE**

20 Defendants are informed and believe, and on that basis allege, that the
21 Complaint, and the purported claims for relief contained therein, is barred (in whole
22 or in part) by Plaintiff's fraud and/or deception in the copyright registration process
23 (which, upon information and belief, includes, among other things, misrepresenting to
24 the U.S. Copyright Office that it is the owner of the Subject Design, and that the
25 Subject Design is an original work of authorship), for which a reasonable opportunity
26 for investigation or discovery is likely to provide evidentiary support.

27 **THIRD AFFIRMATIVE DEFENSE**

28 Upon information and belief, Plaintiff's claims are barred (in whole or in part)

1 because of its anti-competitive intent and conduct, its misuse of its purported
2 copyright and its abuse of the judicial process, for which a reasonable opportunity for
3 investigation or discovery is likely to provide evidentiary support.

4 **FOURTH AFFIRMATIVE DEFENSE**

5 Plaintiff's claims are barred (in whole or in part) by the doctrine of unclean
6 hands.

7 **FIFTH AFFIRMATIVE DEFENSE**

8 Plaintiff's claims are barred (in whole or in part) by the doctrine of laches.

9 **SIXTH AFFIRMATIVE DEFENSE**

10 Plaintiff's claims are barred (in whole or in part) by the doctrine of release,
11 waiver, and/or estoppel.

12 **SEVENTH AFFIRMATIVE DEFENSE**

13 Plaintiff's claims are barred (in whole or in part) by the doctrine of
14 acquiescence.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 Plaintiff's claims are barred by the applicable statute of limitations, including
17 Section 507 of the Copyright Act.

18 **NINTH AFFIRMATIVE DEFENSE**

19 Plaintiff's claim are barred because Plaintiff has failed to assert ownership of
20 and identify a valid copyright.

21 **TENTH AFFIRMATIVE DEFENSE**

22 Plaintiff's claims are barred because Plaintiff's purported copyright and/or
23 copyright registration is invalid, void and unenforceable. Among other things,
24 Defendants contend that a reasonable opportunity for further investigation or
25 discovery is likely to provide evidentiary support for one or more of the following:

- 26 (a) the registration for the purported copyright is a collection or compilation
27 registration that contain material that is not original and/or protectable as
28 a matter of law;

1 (b) the registration for the purported copyright is a collection or compilation
2 registration that contain material originally developed by persons or
3 entities other than Plaintiff; and/or

4 (c) the registration for the purported copyright is a collection or compilation
5 registrations that contains material found in the public domain.

6 **ELEVENTH AFFIRMATIVE DEFENSE**

7 Plaintiff lacks standing to bring the claims asserted in the Complaint because,
8 among other things, Plaintiff is not the owner of the Subject Design.

9 **TWELFTH AFFIRMATIVE DEFENSE**

10 Plaintiff's claims are barred because the Subject Design is not an original work
11 of authorship and thus is not entitled to copyright protection.

12 **THIRTEENTH AFFIRMATIVE DEFENSE**

13 Plaintiff cannot prevail on its claims against Defendants because Defendants
14 did not have access to Plaintiff's Subject Design.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 Plaintiff cannot prevail on its claims against Defendants because the Accused
17 Product is not substantially similar in overall appearance to the Subject Design.

18 **FIFTEENTH AFFIRMATIVE DEFENSE**

19 Plaintiff cannot prevail on its claims against Defendants because to the extent
20 Plaintiff may be entitled to any copyright protection in the Subject Design, such
21 protection is extremely thin, and Plaintiff will not be able to establish infringement
22 under the principles governing thin copyrights.

23 **SIXTEENTH AFFIRMATIVE DEFENSE**

24 To the extent Defendants infringed any copyright interest purportedly held by
25 Plaintiff relating to the Subject Design, which they deny, they did so with innocent
26 intent.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred (in whole or in part) by its failure to mitigate damages.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff has not sustained any injury or damage as a result of any act or conduct of Defendants with respect to the Subject Design.

NINETEENTH AFFIRMATIVE DEFENSE

Upon information and belief, Plaintiff's claims are barred because it has failed to join indispensable parties, including without limitation, others claiming ownership of or other interests in the purported copyright in the Subject Design, all of whom who are necessary for a complete and full adjudication of Plaintiff's claims, for which a reasonable opportunity for investigation or discovery is likely to provide evidentiary support.

TWENTIETH AFFIRMATIVE DEFENSE

Upon information and belief, Plaintiff's claims are barred by the doctrine of consent, in that Plaintiff consented to the acts it now complains of, as evidenced by, among other things, its purposeful distribution of copies of the Subject Design into the public domain, and deliberate allowance of such designs to be copied freely outside the United States.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred or limited by the scenes a faire and/or merger doctrine, in that, among other things, Plaintiff's purported Subject Design is ordinary, commonplace, or standard in the relevant art or industry.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff's purported damages are subject to apportionment — if Plaintiff is entitled to any damages, which it is not, it is only entitled to recover Defendants' profits attributable to the particular complained-of textile print, not the entirety of their profit from the sale of the Subject Product.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Defendants reserve the right to allege additional affirmative defenses as they may become known, and to amend this Answer accordingly.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff's Complaint be dismissed with prejudice and that Plaintiff take nothing from Defendants by virtue of its Complaint;
2. That judgment be entered in favor of Defendants, and against Plaintiff;
3. That Defendants be awarded their costs of suit and reasonable attorneys' fees incurred herein; and
4. For such other and further relief as this Court may deem just and proper.

Dated: July 17, 2015

ARNOLD & PORTER LLP

By: /s/ Eric D. Mason

ERIC D. MASON

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MATTHEW T. SALZMANN

LAURA W. TEJEDA

*Attorneys for Defendants Louise Paris, Ltd.
and Ross Stores, Inc.*

DEMAND FOR JURY TRIAL

Defendants hereby demand a trial by jury.

Dated: July 17, 2015

ARNOLD & PORTER LLP

By: /s/ Eric D. Mason

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LOUIS S. EDERER

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LAURA W. TEJEDA

*Attorneys for Defendants Louise Paris, Ltd.
Ross Stores, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July 2015, I filed the foregoing
DEFENDANTS LOUISE PARIS, LTD.'S AND ROSS STORES, INC.'S
ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT with the Court
through this District's CM/ECF system. Pursuant to Local Rule 5-3.2, the "Notice of
Electronic Filing" automatically generated by the CM/ECF at the time the document
is filed with the system constitutes automatic service of the document on counsel of
record who have consented to electronic service.

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